UNITED STATES PATENT AND TRADEMARK OFFICE

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10/645,260	08/20/2003	David Hooper	06769.P001	7336

7590 06/28/2007	EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *17 May 2007*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *63-96* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *63-96* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible

for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has

been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37

CFR 1.114. Applicant's submission filed on 05/17/2007 has been entered.

2.   This action is responsive to the following communication: Amendment filed 05/17/07.

This action is made non-final.

3.   Claims 1-62 are cancelled. Claims 63-96 are pending in the case. Claims 63 and 82

are independent claims. Claims 63-96 are new claims.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 84, 86, 89, 90 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claim 84 recites the limitation "the file header" in line 2 of the claim. There is insufficient

antecedent basis for this limitation in the claim.

Claim 86 recites the limitation "the file system date" in line 1 of the claim. There is

insufficient antecedent basis for this limitation in the claim.

Claims 89, 90 recite the limitation "the thumbnail representations" in line s of the claims.

There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under

35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly

owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of

each claim that was not commonly owned at the time a later invention was made in order for the

examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior

art under 35 U.S.C. 103(a).

7.   **Claims 63, 66, 69, 73-82, 85, 88-96 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Rothmuller et al. (Pub No US 2003/0033296 A1, hereinafter

Rothmuller) in view of Graham et al. (Pub article "Time as Essence for Photo Browsing

Through Personal Digital Libraries" JCDL 2002 proceeding, pp 326-335; hereinafter

Graham).

        As to claim 63, Rothmuller teaches:

A calendar-based asset organizer, implemented by instructions of a computer program

stored on a computer readable storage medium (e.g., see Fig. 1 and [0041]), the medium

comprising:

instructions for a digital asset manager, for receiving a search query for digital assets,

and for returning a result set of identifiers for a plurality of digital assets that satisfy the query,

wherein each asset in the result set has a date associated therewith (e.g., see Fig. 1 and [0004],

[0026]; note that the disclose invention includes steps for associating metadata with individual

objects such as images or photos, storing the objects and associated metadata as records in a

relational database; of course, it is well-known or obvious to one skill in the art that a result set

is generated by executing a statement that queries the database); and

instructions for a user interface, communicatively coupled with the digital asset manager

(e.g., see Fig. 1 and [0004], [0018], [0026]),

(i) for issuing the search query to the digital asset manager (e.g., see [0025], [0026]),

(ii) for receiving the result set of the search query from the digital asset manager (e.g.,

see [0025], [0026]), and

(iii) for presenting a calendar view of the result set (e.g., see Fig. 1 and Fig. 4), the

calendar view being either

(a) a year view for displaying at least one year (e.g., timeline 250 in Fig. 1 and

[0031]), or

(b) a month view for displaying at least one month (e.g., calendar view in Fig. 4),

or

(c) a day view for displaying at least one day (e.g., image area 100 shows photo

for day select "12/25/01", see Fig. 1).

Rothmuller further teaches displaying the number of photos taken for a day view, month

view and year view (e.g., see Fig. 4 and [0028], [0031]). Rothmuller does not expressly teach

displaying the exact number of photos taken for year view.

Graham teaches a user interface for presenting a calendar view of the search result, the calendar view being either (a) a year view for displaying at least one year and indicating the number of assets in the result set that have associated dates within each year from the displayed years, or (b) a month view for displaying at least one month and indicating the number of assets in the result set that have associated dates within each month from the displayed months, or (c) a day view for displaying at least one day and indicating the number of assets in the result set that have associated dates within each day from the displayed days (e.g., see Fig. 5 in page 331).

Rothmuller and Graham are analogous art because they are from the same field of endeavor of photo browsing based on time factor. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the three views of displaying photo as taught by Graham to the system of organizing and finding digital images as taught by Rothmuller because Graham suggests to the skill artisan that the hierarchical browser can be combined with other browsers such as calendar browser (see Graham pp 331, right column last two lines). The motivation to combine the teaching of Rothmuller with Graham's teaching is to provide a reliable way for finding images (e.g., see Graham pp 333 left column lines 17-26).

As to claim 82, claim 82 reflects the method for organizing assets that performing the functions as claimed in claim 63, and is rejected along the same rationale.

As to claims 66 and 85, Rothmuller teaches wherein the date associated with an image is a file system date for a file containing the image (e.g., see [0027]).

As to claim 69, Rothmuller further teaches a database a relational database manager (e.g., see [0004]).

As to claims 73 and 88, Rothmuller further teaches displaying thumbnail representations of the assets in the result set that have associate dates within (a) a selected year from the displayed years, or (b) a selected month from the displayed months, or (c) a selected day from the displayed days, as appropriate (e.g., see Fig. 1).

As to claims 74 and 89, Rothmuller further teaches returning binary data for thumbnail representations of images (e.g., see thumbnail view in the image area 100, Fig. 1 item 100; note that it is well-known in the art that image file are stored or displayed in a computer as binary data).

As to claims 75 and 90, Rothmuller further teaches wherein said returning returns pointers to binary image data for the thumbnail representations of the assets in the result set (i.e., pointers to photos, see [0017]).

As to claims 76 and 91, Rothmuller further teaches wherein the assets are digital images (e.g., see [0004]).

As to claims 77 and 92, Rothmuller further teaches wherein the digital content is digital slide presentation (e.g., photo slide shows, see [0039]).

As to claims 78 and 93, Rothmuller further teaches wherein the digital content is digital image collection (e.g., photo album, see [0039]), and wherein the date associated with a digital image collection is the earliest of the dates associated with the individual images in the collection (e.g., see Fig. 2).

As to claims 79 and 94, Rothmuller further teaches wherein the digital content is digital animation (e.g., frame in video file, see [0039] and [0040]).

  As to claims 80 and 95, Rothmuller further teaches wherein the digital content is

electronic documents (e.g., photographic metadata or information about a photo or tag, see

[0017] and [0020]).

  As to claims 81 and 96, Rothmuller further teaches wherein the digital content is email

communication (e.g., see [0020]).

8. **Claims 64, 65, 67, 68, 83, 84, 86, 87 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Rothmuller in view of Graham and further in view of

http://Fototime.com/ftweb/fahelp/ (published web pages, "321.htm", "256.htm",

"434.htm", hereinafter Fototime).

  As to claims 64 and 83, Rothmuller and Graham teach the limitation of claims 63 and

82 for the reasons as discussed with respect to claims 63 and 82 above. Rothmuller further

teaches that wherein the date associated with an image is a date stored by an image capture

device (e.g., see [0027]). Rothmuller and Graham fail to expressly teach that the associated

date is stored within a file header of a file containing the image.

  Fototime teaches the date associated with an image is a date stored by an image

capture device within a file header of a file containing the image (EXIF, see web page 256.htm;

it is noted that EXIF is defined as file header in the applicant's specification, see applicant pp. 2,

lines 16-18).

  It would have been obvious to one of ordinary skill in the art at the time the invention was

made to have utilized the file header format as taught by Fototime to the photo organizer as

taught by Rothmuller and modified by Graham to extract the date information stored in the

header file by an image capture device and thus release the user from manual data entry to

speed-up processing time and to achieve a more accurate and reliable system (see Fototime web page 256 line 7).

As to claims 65 and 84, Rothmuller further teaches the assets are digital images (e.g., see [0004]). Fototime further teaches wherein the file header is an Exchangeable Image File (EXIF) header (see web page 256.htm). Thus, combining Rothmuller, Graham and Fototime would meet the claimed limitation for the same reason as discussed in claims 64 and 83.

As to claims 67 and 86, Fototime further teaches wherein the file system data is a file's last modified date (Pic Modified, see Figure on web page 434.htm). Thus, combining Rothmuller, Graham and Fototime would meet the claimed limitation for the same reason as discussed in claims 64 and 83.

As to claims 68 and 87, Fototime further teaches wherein the date associated within an image is date entered manually by a user (it is noted that for an image that does not have a date embedded, Fototime allows a date to be entered manually, see web page 321.htm, lines 4-6). Thus, combining Rothmuller, Graham and Fototime would meet the claimed limitation for the same reason as discussed in claims 64 and 83.

9.   **Claims 70-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothmuller in view of Graham and further in view Baskins et al. (Patent No 6,654,760 B2, hereinafter Baskins)**

As to claim 70, Rothmuller and Graham teach the limitation of claim 63 for the reasons as discussed above. Rothmuller and Graham fail to expressly teach a tree data structure.

Baskins teaches a tree data structure for storing data (see col. 5, lines 11-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the system of data processing as taught by Baskins to the photo organizer as taught by Rothmuller and modified by Graham to increase system efficiency by providing effective data management, achieved by the appropriate choice of data structure and related storage and retrieval algorithms (see Baskins col. 1, lines 39-42).

As to claim 71, Baskins further teaches a linked list data structure (see col. 2, lines 6-10). Thus, combining Rothmuller, Graham and Baskins would meet the claimed limitation for the same reason as discussed in claim 70.

As to claim 72, Baskins further a dynamic array data structure (see col. 4, lines 10-15). Thus, combining Rothmuller, Graham and Baskins would meet the claimed limitation for the same reason as discussed in claim 70.

Response to Arguments

10.   Applicant's arguments filed 05/17/07 have been fully considered but they are not persuasive.

- Applicant's argument that the prior art of Rothmuller, Graham, Fototime fail to teach or suggest that the limitations of "receiving the result set of the search query from the digital asset manager" and "presenting a calendar view of the result set" (e.g., see Applicant's remark page 9 lines 20-22).

The Examiner respectfully disagrees.

The prior art of Rothmuler teaches a user interface for storing, managing, finding and displaying object such as digital images where the objects and metadata associating with individual objects are as records in a relational database (e.g., see [0004] and Fig. 1).

Rothmuller further teaches that objects in the database can be searched for and sorted by querying the database for all photos having metadata that match one or more search condition (e.g., see [0025] and [0026]) and search result can be displayed in a calendar view (e.g., see Fig. 1 and Fig. 4). In addition, it is well-known or obvious to one skill in the art that a result set is generated by executing a statement that queries the database; in this case, the user interface allows a user to enter search criteria (e.g., item 210 in Fig. 1) and result items will be displayed in the image area that meet the search criteria (e.g., see Fig. 1). Therefore, the examiner concludes that the prior art of Rothmuller in view of Graham teach the limitations "receiving the result set of the search query from the digital asset manager" and "presenting a calendar view of the result set".

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275,277 (CCPA 1968)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TuyetLien (Lien) T. Tran whose telephone number is 571-270-1033. The examiner can normally be reached on Mon-Friday: 7:30 - 5:00, off on alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/12/2007

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